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Letter dated 15 July 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 16 December 2004 (S/2004/1007). The Counter-Terrorism Committee has received the attached third report from Oman submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 11 July 2005 from the Permanent Mission of Oman to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Sultanate of Oman to the United Nations presents its compliments to the Chairman and has the honour to transmit herewith the report from the competent authorities in the Sultanate of Oman in response to the Chairman's note dated 22 October 2004 (see enclosure).

Enclosure

[Original: Arabic]

Sultanate of Oman

Ministry of Foreign Affairs

Reply of the Sultanate of Oman to the comments of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism on the supplementary report of the Sultanate of Oman

With reference to the letter dated 22 October 2004 from the Chairman of the Counter-Terrorism Committee (S/AC.40/2004/MS/OC.450) setting out comments and questions concerning the supplementary report of the Sultanate, which was transmitted to the Committee and is contained in document S/2003/790, the Sultanate is pleased to submit the following clarifications:

1. Implementation measures:

1.1 The Sultanate has taken note of the comment of the Counter-Terrorism Committee to the effect that the provision of article 132 of the Omani Penal Code does not implement subparagraph 1 (b) of resolution 1373 (2001). The attention of the competent authorities will accordingly be directed to addressing this matter.

1.3 The competent authority mentioned in the provisions of the Money-Laundering Act is the Directorate General of Criminal Inquiries and Investigations of the Royal Oman Police. For further clarification, a full copy of the Money-Laundering Act No. 34 of 2002 is annexed hereto in both English and Arabic. The Central Bank of Oman circulated the Act to all banks and financial institutions under its supervision, pursuant to Circular No. 936/2002 of 7 April 2002 (annexed hereto).

1.4 A comprehensive implementing regulation for the Money-Laundering Act was issued, containing all the provisions and measures required to implement the Act. There are no other such implementing regulations. We are thus transmitting herewith, in both English and Arabic, a full copy of the implementing regulation for the Money-Laundering Act promulgated by Royal Decree No. 72/2004. The implementing regulation in itself deals very thoroughly with the provisions and substance of the Money-Laundering Act, satisfying the needs of the Committee and responding to all of its questions on this subject. It is also worth mentioning that, as soon as it was issued, the implementing regulation for the Money-Laundering Act was circulated by the Central Bank of Oman to all banks and financial institutions under its supervision, pursuant to Circular No. DTM/QMGHA/BT/2004/3532, dated 18 July 2004, in both English and Arabic (annexed hereto).

1.5 The Sultanate has taken note of the Committee's comment that "article 13 of the Money-Laundering Act No. 34 of 2002 is concerned with freezing assets associated with money-laundering activities, and not with the financing of terrorism". The attention of the competent authorities will be directed to addressing this matter.

1.6 The Sultanate understands that joining regional counter-terrorism instruments (the Arab Convention for the Suppression of Terrorism, the Convention of the Organization of the Islamic Conference on Combating Terrorism and the counter-terrorism agreement among the States of the Gulf Cooperation Council) cannot be viewed as an alternative to joining the three remaining conventions (the International Convention for the Suppression of the Financing of Terrorism, the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of Acts of International Terrorism) in that these Conventions are currently under consideration by the competent authorities.

1.7 A full copy of the Banking Act No. 114/2000 is annexed hereto in both English and Arabic, together with a full copy of Regulation No. BM/43/11/97 on money-changing and hawalah procedures, also in both English and Arabic. In themselves, these annexes deal amply with the provisions of the laws and regulations that are the subject of the Committee's questions.

1.8 Circular No. 18/ME on money-changing companies, issued by the Central Bank of Oman on 24 June 2003, is annexed hereto. Pursuant to this Circular, the previous restriction limiting the number of branches of any money-changing company to six was lifted. Such companies are now therefore able to open branches anywhere that no money-changing service is available. This decision was taken in order to respond to market needs, promote fair and healthy competition in the sector, enable access to money-changing services, even in remote and outlying areas, and ensure that domestic decisions are in step with the international efforts to prevent and detect illegal activities and unofficial channels for the transfer and accumulation of funds by providing universally accessible money-changing services through official licensed channels that are subject to monitoring and available country-wide.

1.9 The Sultanate cooperates with other States, in accordance with bilateral or multilateral agreements, through such international institutions as the International Criminal Police Organization (Interpol) and the Arab Interpol, as well as through direct contacts between the competent authorities in the Sultanate and their counterparts abroad, whether the source of information originates in or outside Oman.

1.10 There are various legal provisions in effect in the Sultanate concerning the prevention of the counterfeiting, forgery or fraudulent use of identity papers and travel documents, as follows:

– The Omani Penal Code:

Article 183: Any person who misleads the judiciary or members of the security forces who are engaged in prosecuting crimes by assuming a false identity or a capacity that he does not have or by making a false statement about his domicile shall be punished with imprisonment of 10 days to 6 months and/or a fine of 5 to 20 riyals.

Article 199: Forgery is the deliberate counterfeiting of material facts and data proven by an instrument or any other written document, with the result that the person making the forgery may benefit or that material, moral or social injury may be caused to a third party.

Article 200: Any person who knowingly uses a forged item shall receive the same punishment as a person who commits forgery.

Article 201: If forgery is committed or if a forged item is used with intent to prove a genuine matter, the penalty shall be reduced in accordance with article 109 of this Act.

Article 202: The penalty of imprisonment of 3 to 15 years shall be imposed on any person who:

1. Sets out to forge official records or documents that are issued by a Government department or effective until such time as their forgery is proven;

2. Sets out intentionally to destroy official documents in whole or in part or deface the same in such a manner as to prejudice their evidential power;

3. Sets out to fabricate a fictitious instrument or other written document that should be issued by an official department.

Article 203: Bearer bonds and nominal bonds that may be legally issued in Oman or another country shall be regarded as official documents, as shall all securities and bank cheques, whether bearer cheques or endorsed cheques.

Article 204: If the person committing the forgery of official documents is a public servant, he shall be punished with a term of imprisonment of up to five years. For the purposes of the preceding articles, religious officials and persons authorized to make documents official or to sign or seal documents shall be regarded as public servants.

Article 205: Any person having committed the forgery of personal documents shall be punished with imprisonment from one to three years and a fine of 20 to 50 riyals.

Article 206: Any person who is legally obliged to keep records that are subject to monitoring by an official agency and who fakes such records so as to mislead the agency shall receive the penalty stipulated in the previous article. Any person who knowingly uses such fake records shall also receive the same penalty.

Article 207: The penalty of imprisonment of one month to one year and a fine of 5 to 50 riyals shall be imposed on any person who:

1. Obtains by means of a false identity any official document prepared for the holder thereof by persons competent to do so, such as an identity card, a passport, a residence card or a work permit, except where a particular law provides for another penalty;

2. Fakes or forges the documents referred to in the preceding paragraph.

Article 208: The penalty for the forgery of personal documents stipulated in article 205 of this Act shall be imposed on any person who:

1. In the course of carrying out a public duty, a public service or a profession in the medical or health services, gives false information or a false statement for submission to the official authorities where such is likely to lead to illegal benefit or damage the interests of a third party;

2. Commits the forgery of such information or statements;

3. Knowingly uses such false or forged information or statements.

– The Alien Residence Act:

Article 41: Without prejudice to any heavier penalty prescribed under the Omani Penal Code or any other law, the penalty of imprisonment of not less than one month and not more than three years, together with a fine of not less than 100 riyals and not more than 500 riyals, shall be imposed on:

1. Any person who gives false information to the competent authority or submits improper documents with intent to obtain or renew any type of visa provided for in this Act or acquire a residence stamp or transit permit;

2. Any alien who enters the territory of the Sultanate by furtive means or infiltration or in contravention of the provisions of article 5 or article 6 of this Act;

3. Any alien who does not leave the territory of the Sultanate within the duly specified period, despite having been notified that the renewal of his residence has been denied.

The maximum penalty stipulated in the first clause of this article shall be imposed if the offences referred to are repeated and also if the alien returns illegally to the Sultanate following his deportation.

– The Omani Passport Act:

Article 17: The penalty of a term of imprisonment of not less than one month and not more than one year and/or a fine of not less than 50 riyals and not more than 200 riyals shall be imposed on any person who:

(a) Claims that he is the genuine owner of a passport or travel document by fraudulently using the name of another person or making false assertions, and likewise on any person who gave him the passport or document for illegitimate use;

(b) Falsely claims to have lost a passport or travel document;

(c) Signs a false certificate for an applicant for a passport or travel document;

(d) Conceals or withholds the passport or travel document of a third party without a legitimate reason;

(e) Contravenes the provisions of articles 2, 3 or 8 of this Act.

– The Civil Status Act:

Article 57: Without prejudice to any heavier penalty set forth in another law, the penalty of imprisonment and/or a fine of up to 500 riyals shall be imposed on any person who:

(a) Knowingly gives incorrect information or submits forged documents or certificates in order to obtain a card or record an entry in the civil status register;

(b) Deliberately gives his card to another person for use, facilitates use of the card by such person or deposits the card as security;

(c) Deliberately destroys a card or claims in bad faith that it is lost;

(d) Forges a card or any certificate issued by the Directorate General or Omani missions;

(e) Obtains a card by illegitimate means or claims that it is his by fraudulently using the name of another person.

1.11 Having acceded to most of the international instruments aimed at combating terrorism, the Sultanate understands that the offences established by these instruments are not deemed to be political offences. Consequently, the perpetrator of such offences does not benefit from any exception or immunity on the basis of the political nature of the offence (the Alien Residence Act is annexed hereto).

1.12 In accordance with the Basic Law of the State, any treaty acceded to or ratified by the Sultanate becomes a part of domestic law and has the same force of law, as stated in the following two articles:

Article 76: Treaties and conventions shall not have force of law until they have been ratified. Under no circumstances may the treaty or convention comprise implicit conditions that conflict with its explicit conditions.

Article 80: No body in the State may issue rules, regulations, decisions or directives that conflict with the provisions of the laws and decrees in effect or with the international treaties and conventions that are part of domestic law.

1.13 The Sultanate is keen to conclude bilateral agreements with various countries of the world on the extradition of offenders and judicial cooperation. It has recently concluded a bilateral agreement on the extradition of suspects and convicted persons with the Republic of India and moves are under way for the conclusion of similar agreements with other States.

1.14 The jurisdiction of the Omani courts to consider any act committed outside the Sultanate by a foreign national who is in Oman is provided for in article 12 of the Omani Penal Code, which stipulates the following:

Article 12: Omani law shall apply to any alien, whether a perpetrator, an instigator or an accomplice, who commits a felony or a misdemeanour outside the country that is punishable under Omani law and not provided for under articles 8, 10 and 11 of this Act and who is found in Omani territory after the act has been committed. In this case, it is a prerequisite that:

1. Under the law of the State in whose territory the offence was committed, the offence must be punishable with imprisonment amounting to three years;

2. The repatriation of the alien must not have been requested or approved;

3. The alien must not have received a final conviction outside the country and, in the event that he has been convicted, the penalty must not have been executed, nor must the offence or the penalty have been waived by a general amnesty or a personal pardon or by passage of time.

In the event of disparity between Omani law and the law of the place where the offence took place, the Omani judge may take such disparity into consideration in the interest of the defendant.

15.1 The Sultanate has a law on the extradition of offenders (annexed hereto) and is also bound by a number of bilateral and multilateral agreements on judicial cooperation and requests for legal assistance, including, for instance, an agreement

on judicial cooperation with Egypt, the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards of 1958, the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States, the Riyadh Arab Agreement on Judicial Cooperation and an agreement of the Gulf Cooperation Council on judicial notices and requests for judicial assistance.

1.16 These subjects were not broached in the questionnaires submitted by the Sultanate to other organizations.

2. Assistance and guidance

The Sultanate looks forward to benefiting from the assistance and advice offered by the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and by other specialized agencies and organizations, following an assessment of its needs in this area.